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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/774,232

02/06/2004

Wu Qing

9896-000022

8166

27572 7590 06/29/2009  
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EXAMINER

SHAW, PELING ANDY

ART UNIT

PAPER NUMBER

2444

MAIL DATE

DELIVERY MODE

06/29/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<p align="center"><b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b></p>	<p><b>Application No.</b> 10/774,232</p>	<p><b>Applicant(s)</b> QING ET AL.</p>	
	<p><b>Examiner</b> PELING A. SHAW</p>	<p><b>Art Unit</b> 2444</p>	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 10 June 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: none.  
Claim(s) objected to: none.  
Claim(s) rejected: 1-14.  
Claim(s) withdrawn from consideration: none.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

/Peling A Shaw/  
Examiner, Art Unit 2444

Continuation of 11. does NOT place the application in condition for allowance because: Applicant has amended independent claim 1 substantially. Applicant has cancelled claim 5 without further addressing the dependence of claims 6-7 and 10-13 on claim 5. It is not clear on the intention of applicant. Application is thus not in condition for allowance. Applicant has argued (last paragraph on page 8 through 1st paragraph on page 9 of current amendment) that Chen as per paragraph 56 "ensures and grants bandwidth" does not teach "request the resource to the IP access network". Examiner does not agree. As quoted in paragraphs 35, 40-41, 43 and 94, a setup message is used to setup with QoS parameters and is processed at the connection server, the connection server perform routing based upon routing policy, determines bandwidth available in ATU-Rs and DSLAMs with signaling message including QoS requirement to ensure and grant bandwidth, i.e. request the resource (bandwidth) to the IP access network (ATU-Rs and DSLAMs). Applicant has argued (3rd paragraph on page 9 of current amendment) that the QoS are parameter about PVC and are irrelevant with the stream classification table. Examiner does not agree. Applicant has stated that QoS is used in setting items of a stream classification table. Here the QoS is particularly used in setting up ATM connection, e.g. PVCs. This is further shown in applicant's claim 6. Applicant has further argued that Chen does not classify the upward traffic (1st through 3rd paragraphs on page 10 of current amendment). Examiner does agree. Chen has described the same technologies used in connection ATM and IP network. The classification of traffic is standard used in ATM traffic management as shown in paragraph 31 as class of service. This is also shown in paragraph 37 of applicant's specification. Applicant has argued the limitation of performing bandwidth limitation. Examiner has reviewed applicant's specification on this limitation and found in paragraph 37 a mere recitation of this function. As one skill in the art of ATM traffic management knows the bandwidth limitation is a standard feature that is also described in section 106 of Chen as "Policing connections based upon traffic descriptor, i.e. including bandwidth in paragraph 31 of Chen. Applicant's further argument as per 3rd paragraph on page 11 through 1st paragraph on page 12 on "processing traffic stream when not matched as an upward traffic stream without guaranteed QoS" is the well known ATM UBR class of service traffic as shown in paragraph 90 of Chen as one of service categories. Chen has also described a default route for traffic not using QoS in paragraph 39.